

#### Members

Rep. Robert Kuzman, Chairperson  
Rep. Ryan Dvorak  
Rep. Ralph Ayres  
Rep. Kathy Richardson  
Sen. Richard Bray, Vice-Chairperson  
Sen. David Long  
Sen. John Broden  
Sen. Timothy Lanane  
Chief Justice Randall T. Shepard  
Hon. Ernest Yelton  
David A. Lewis  
Tim Curley



## COMMISSION ON COURTS

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Authority: IC 33-1-15

### MEETING MINUTES<sup>1</sup>

Meeting Date: September 25, 2003  
Meeting Time: 10:00 A.M.  
Meeting Place: State House, 200 W. Washington St., 431  
Meeting City: Indianapolis, Indiana  
Meeting Number: 2

**Members Present:** Rep. Robert Kuzman, Chairperson; Rep. Ryan Dvorak; Rep. Ralph Ayres; Rep. Kathy Richardson; Sen. Richard Bray, Vice-Chairperson; Sen. David Long; Sen. Timothy Lanane; Chief Justice Randall T. Shepard; Hon. Ernest Yelton.

**Members Absent:** Sen. John Broden; David A. Lewis; Tim Curley.

#### Call to Order

Representative Kuzman called the meeting to order at 10:12 a.m.

#### Judicial Pay Adjustments

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<sup>1</sup> Exhibits and other materials referenced in these minutes can be inspected and copied in the Legislative Information Center in Room 230 of the State House in Indianapolis, Indiana. Requests for copies may be mailed to the Legislative Information Center, Legislative Services Agency, 200 West Washington Street, Indianapolis, IN 46204-2789. A fee of \$0.15 per page and mailing costs will be charged for copies. These minutes are also available on the Internet at the General Assembly homepage. The URL address of the General Assembly homepage is <http://www.ai.org/legislative/>. No fee is charged for viewing, downloading, or printing minutes from the Internet.

Judge Nancy Vaidik (Indiana Court of Appeals) addressed the Commission regarding judicial pay adjustments. Judge Vaidik asked the Commission to approve the following three measures to adjust judge's pay:

- (1) Require litigants in criminal and civil cases to pay a \$12 judicial salaries fee in order to increase judicial salaries as follows:
  - (A) Each full time judge of a circuit, superior, municipal, county, or probate court would receive an annual salary of \$111,384.
  - (B) Each judge of the Indiana Court of Appeals would receive an annual salary of \$132,804.
  - (C) Each justice of the Indiana Supreme Court would receive an annual salary of \$137,904.
- (2) Create a public officers compensation commission. This commission would make biannual salary recommendations for public officers (including judges) to the Legislative Council and the Budget Committee.
- (3) Provide an automatic annual salary increase for judges that is equivalent to the average percentage annual salary increase received by state employees of the executive branch in each state fiscal year that a salary increase is not legislatively enacted for judges.

Representative Kuzman noted that the three proposals outlined by Judge Vaidik were bills introduced by Senator Bray during the 2003 session. (See SB 244, SB 348, and SB 364).

#### Requests for Additional Courts

##### Dearborn County

Judge Michael Witte (Dearborn Superior Court) asked the Commission to recommend an additional superior court for Dearborn County. Judge Witte offered documentary evidence of county support for the additional superior court (Exhibit A).

Judge Yelton stated that Dearborn County has been previously approved for an additional superior court by the Commission.

Judge John Baker (Indiana Court of Appeals/Designee of Chief Justice Shepard) cited the growth of Dearborn County and the resultant increase in litigation as a factor supporting the need for an additional superior court in Dearborn County.

##### Montgomery County

Representative Tim Brown asked the Commission to recommend abolishing the Montgomery County Court and creating an additional superior court.

Also appearing before the Commission was Judge Peggy Lohorn (Montgomery County Court). Judge Lohorn explained that the county court's jurisdiction includes Class D felonies, misdemeanors, infraction and ordinance violations, and civil matters under \$10,000. She explained that a superior court's jurisdiction is much broader and would allow the superior court judge to hear more cases. She stated that the change from a county court to a superior court would have no fiscal impact on the state. She offered documentary evidence of county support for the additional superior court (Exhibit B).

#### Amendments to Exemption Levels for Execution of Judgments

Mark Zuckerberg (Attorney) provided the Commission with a draft of proposed

amendments to exemption levels under IC 34-55-10 (Exhibit C). Mr. Zuckerberg stated that Indiana has a high rate of bankruptcy filings in part because of the current exemption levels under IC 34-55-10. He explained that the proposed changes in exemption levels were arrived at after lengthy study by a group of attorneys, creditors, and debtors.

Steve Ancel (Attorney) explained how IC 34-55-10 is used in bankruptcy and debt collection proceedings. He noted the exemption levels have not been changed since 1980 and that an update is necessary to ensure the levels are reasonable.

Professor Thomas Allington (Indiana University School of Law-Indianapolis) also addressed the Commission. Professor Allington stated that he drafted the proposed amendments to IC 34-55-10.

Senator Lanane asked Professor Allington if the exemption level for intangible property was eliminated in favor of an increased exemption level for personal property. Professor Allington responded that the personal property exemption of \$4,000 and the intangible personal property exemption of \$100 were both eliminated in favor of an exemption for any property not exceeding an aggregate value of \$10,000.

Senator Bray asked if a debtor could use the \$15,000 real estate exemption and the separate \$10,000 property exemption for an aggregate exemption of \$25,000. Professor Allington stated that the exemptions could total \$25,000.

Representative Kuzman asked if financial institutions had been consulted regarding the increased exemption levels. Elliot Levin (Attorney) stated that financial institutions had not participated in the drafting of the amendments to the exemption levels.

#### Costs of Certified Mail

Deb Arnett (Steuben County Clerk) explained how the costs of certified mail in civil proceedings are placing an increasing financial burden on Steuben County. She indicated support for requiring a \$5 service fee in civil proceedings to be used to offset the costs of certified mail.

Judge Yelton noted that the problem is not limited to Steuben County. Judge Yelton stated that costs of certified mail are a problem in Clay County as well.

Representative Kuzman and Judge Yelton suggested that the service fee should be \$10 instead of \$5.

#### Commission Recommendations

Judicial Pay Adjustments. The Commission favorably recommended each of the judicial pay adjustment proposals.

Additional Courts. The Commission favorably recommended an additional superior court in Dearborn County.

The Commission favorably recommended abolishing the Montgomery County Court and creating an additional superior court.

Amendments to Exemption Levels for Execution of Judgments. The Commission favorably recommended the concept of increasing exemption levels but did not favorably recommend the submitted amendments.

Costs of Certified Mail. The Commission favorably recommended the imposition of a \$10 service fee to offset the costs to counties created by certified mail in civil actions.

Senior Judge for Indiana Tax Court. The Commission favorably recommended allowing the appointment of a senior judge to the Indiana Tax Court.

Final Report

The Commission reviewed and adopted the final report.

Adjournment

Representative Kuzman adjourned the meeting at 11:45 a.m.